

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2019 / 2020

ULK2612 – LAW OF BANKING

(All Sections / Groups)

25 OCTOBER 2019

Reading Time: 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time: 9.15 a.m. – 12.15 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 4 Questions only.
3. Attempt **FOUR** questions. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into Examination Hall **CLEAN** and **ORIGINAL** copies of:
 - (i) Bills of Exchange Act 1949 of Malaysia;
 - (ii) Financial Services Act 2013;
 - (iii) Anti Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001;
 - (iv) Contracts Act 1950; and
 - (v) Islamic Financial Services Act 2013

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

The relationship between a bank and a customer is contractual in nature.

Explain the situations giving rise to this relationship and support your answers with case laws.

(Total: 25 marks)

QUESTION 2

Ross & Co., a firm of Advocates & Solicitors, a partnership, had its accounts at Best Bank Berhad (BBB). Smith, a partner of Ross & Co., was an authorized signatory of the partnership's accounts and also had a personal account with BBB. Sometime between August 2018 and April 2019, Smith without the knowledge of the other partners, transferred RM40,000/- from the partnership's clients account into his personal account at BBB to pay his personal debts. In April 2019, Smith disappeared. On discovering Smith's action, the remaining partners sued BBB for breach of duty as constructive trustees and for the repayment of the sum of RM40,000/-.

Discuss BBB's liability as constructive trustees, if any.

(Total: 25 marks)

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QUESTION 3

Apex Sdn Bhd (ASB) opened an account at Teguh Bank Bhd (TBB). The authorized cheque signatories were its four directors, Alex, Benson, Charlie and Don. ASB instructed that for cheques below the value of RM15,000/- a single signatory would be sufficient. For cheques exceeding that value there should be two (2) signatories i.e. Alex as a mandatory signatory together with any of the other directors.

Sometime between February 2018 and March 2019, Kenneth, Alex's trusted accounts clerk of over five (5) years forged Alex's signature on 10 cheques payable to himself, totalling a value of RM50,000/-. The fraud was only discovered after Kenneth left ASB in March 2019. Upon discovering the fraud, ASB immediately reported the matter to TBB and claimed payment on the unauthorised payments. TBB deny liability.

Advise TBB on their liability, if any.

(Total: 25 marks)

Answer EITHER Question 4(a) OR Question 4 (b)**QUESTION 4(a)**

You are given the following examples of Bill of Exchange. Explain the following situations.

- a) A bill is drawn "Pay to Mandy or order the sum of RM2,000/-. In the margin of the bill, RM200/- is written. Can the bill be paid and if so what is the amount of the bill.
(5 marks)
- b) When is a negotiable instrument dated 31 January 2019 and made payable three months after the date, deemed to mature?
(5 marks)
- c) A bill of exchange is addressed to Andy. Max writes an acceptance on it. Is Andy bound by the acceptance.
(5 marks)
- d) Benny who is a holder of a bill transfers it to Jack without consideration. Alex transfers it to Johan without consideration. Johan transfers it to Chris for value. Chris transfers it to Jonathan without consideration. Advise Jonathan whether he can recover the amount of the bill from Benny? Alternatively does Jonathan have a right against Chris.
(10 marks)

(Total: 25 marks)

Continued...

OR

QUESTION 4(b)

Discuss the similarities and differences between Islamic banking and conventional banking.

(Total: 25 marks)

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